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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,535	03/25/2004	Ralph H. Schorr	114559	5923

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EXAMINER	
JULES, FRANTZ F	

ART UNIT	PAPER NUMBER
3617	

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/808,535	SCHORR ET AL.	
	Examiner	Art Unit	
	Frantz F. Jules	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-21 and 23-26* is/are pending in the application.

4a) Of the above claim(s) *13,14,21 and 24-26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-12, 15-18, 20,23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 24-26 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the subject matter of "a spring lockout features on at least one of the cap and base to prevent use of an improper spring with the first and second side bearing assemblies" has been withdraw from consideration as the claimed subject matter of non-elected claim 13. Therefore, applicant's amendment to claims 24-25 and 26 to incorporate the limitations of claim 13 thereof is improper

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-14, 21, 24-26 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> **(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.**

3. Claims 1, 5-7, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miner Enterprises, INC (catalogue pages yr 2002) in view of Schorr (US 6,644,214).

Miner Enterprise Inc discloses a long travel constant contact side bearing comprising a base having opposing side walls, a front wall and a rear wall, a cup shaped cap having downwardly sidewalls a front wall and a rear wall that surround the respective side walls, front wall and rear wall of the base in a telescoping fashion with a predetermined spatial gap therebetweem at least in the fore/aft direction as disclosed on page 10,
At least one spring member having a combined load rating of 4,000 to 6,000 lb/in since a 4,500 pound bearing is disclosed on page 6, the bearing having a travel length of at least 5/8 of an inch as disclosed on page 6;
a side view window constituted by the side opening shown in the cap on figs. 5-8 for visual inspection of the bearing in accordance with claim 7.
Miner Enterprises disclose all of the features as listed above but does not disclose a generally rectangular cup shape cap comprising at least two coil springs and spacing bet the cup-shaped cap and the base of 0.006" to 0.046". The general concept of using a generally rectangular cup shape cap comprising at least two coil springs in a constant side bearing is well known in the art as illustrated by Schorr which discloses the teaching of a generally rectangular cup shape cap comprising at least two coil springs. Also the general concept of providing spacing between the cup-shaped cap and the base of 0.006" to 0.46" falls within the real of common knowledge as obvious mechanical expedient and is well known in the art as illustrated by Miner Enterprise which discloses on page 20 a gap of 1/32" or 0.032" between a base inside diameter and top cap post. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprise to include the use of a generally

rectangular cup shape cap comprising at least two coil springs in his advantageous constant contact side bearing as taught by Schorr in order to increase the damped vibration characteristics of the bearing while increasing load capacity. In addition, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprise to include the use of spacing between the cap and the base of the bearing to value ranging between 0.006" and 0.046" in order facilitate sliding of the cap with regard to the base of the bearing as discloses on page 20.

Claims 5-6

Regarding using Grade E steel material for the cap and base as well as hardened wear surfaces on the outside surfaces of the base as recited in claims 5-6, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprises and Schorr to include the use of Grade E steel material for the cap and base as well as hardened wear surfaces on the outside surfaces of the base in his advantageous system, as material selection for bearing is a common and everyday occurrence throughout the constant side bearing design art and the specific use of Grade E steel material for the cap and base as well as hardened wear surfaces on the outside surfaces of the base would have been an obvious matter of design preference depending upon such factors as the loading imposed on the bearing, the yield strength of the bearing material, the maximum operating speed of the vehicle; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular loading imposed on the constant side bearing which would most optimize the cost and performance of the device for a particular application at hand, based upon the above

noted common design criteria.

Claims 15-16

Miner Enterprises teaches all the limitations of claims 15-16 except for a constant side bearing comprising two or more springs provided within the base each having a different diameter and spring load rating. The general concept of providing two or more springs provided within the base each having a different diameter and spring load rating to a side bearing is well known in the art as illustrated by Schoor which discloses the teaching two or more springs provided within the base each having a different diameter and spring load rating to a side bearing. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprises to include the use of two or more springs provided within the base each having a different diameter and spring load rating in his advantageous side bearing as taught by Schoor in order to increase the loading capability of the side bearing while reducing racking of the vehicle.

4. Claims 3-4, 8, 17-18, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miner Enterprises, INC (catalogue pages yr 2002) in view of Schorr (US 6,644,214) and Neumann et al (US 3,748,001).

Claims 3, 8, 17-18, 23

Miner Enterprises discloses all the limitations of claims 3, 8, 17-18, 23 but does not disclose a generally rectangular cup shape cap comprising at least two resilient urging members and flat, non-zero acute intersecting surfaces and spacing bet the cup-shaped cap and the base of 0.006" to 0.046". The general concept of using a generally rectangular cup shape cap comprising at least two coil springs in a constant side

bearing is well known in the art as illustrated by Schorr which discloses the teaching of a generally rectangular cup shape cap comprising at least two coil springs. Also, the general concept of providing spacing between the cup-shaped cap and the base of 0.006" to 0.46" falls within the real of common knowledge as obvious mechanical expedient and is well known in the art as illustrated by Miner Enterprises which discloses on page 20 a gap of 1/32" or 0.032" between a base inside diameter and top cap post. Moreover, the general concept of providing a cup shaped cap comprising flat, non-zero acute intersecting surfaces is well known in the art as illustrated by Neumann et al which disclose the teaching of a cup shaped cap comprising flat, non-zero acute intersecting surfaces, see outside surfaces of 36 in fig. 2. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprise to include the use of a generally rectangular cup shape cap comprising at least two resilient urging members in his advantageous constant contact side bearing as taught by Schorr in order to increase the damped vibration characteristics of the bearing while increasing load capacity. In addition, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprise to include the use of spacing between the cap and the base of the bearing to value ranging between 0.006" and 0.046" in order facilitate sliding of the cap with regard to the base of the bearing as discloses on page 20. Moreover, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner to include the use of a cup shaped cap comprising flat, non-zero acute intersecting surfaces in his advantageous constant contact side bearing as taught by Neumann et al in order to protect the resilient means

from damage when the railroad car encounters severe and unusual conditions as disclosed in col 1, lines 22-23.

Claim 4

Regarding using a flatness to within about 0.010" concave and 0.030" convex in the top surface as recited in claim 4, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Curtis et al and Neuman to include the use of a flatness to within about 0.010" concave and 0.030" convex in the top surface in his advantageous system, as bearing cap sizing is a common and everyday occurrence throughout the constant bearing design art and the specific use of a flatness to within about 0.010" concave and 0.030" convex in the top surface would have been an obvious matter of design preference depending upon such factors as the loading imposed on the bearing, the yield strength of the constant bearing material, the amount of rocking and rolling allowed for the car body; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular loading imposed on the constant side bearing which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

5. Claims 9-12, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miner Enterprises, INC (catalogue pages yr 2002) and Schorr (US 6,644,214), as applied to claim 1, and further in view of Hassenauer (US 3,735,711).

Miner Enterprises and Schorr teach all the limitations of claims 9-12 and 20 except for a complementary keying features located substantially on an exterior of the base an interior of the cap in a diagonal manner. The general concept of providing a

complementary keying features located substantially on an exterior of the base an interior of the cap of a side bearing in a diagonal manner is well known in the art as illustrated by Hassenauer which discloses the teaching of a complementary keying features (23-28, 28) located substantially on an exterior opposite side of the base an interior of the cap in a diagonal manner. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Miner Enterprises and Schorr to include the use of a complementary keying features located substantially on an exterior of the base an interior of the cap in a diagonal manner in his advantageous side bearing as taught by Curtis et al in order to attenuate or lessen rocking of the car body on the truck thereby reducing failure as disclosed in col 1, lines 7-10.

Response to Arguments

6. Applicant's arguments filed 02/06/2006 have been fully considered but they are moot in view of the allowance of the new ground of rejection.

Applicant's amendment to the claims to include the limitations of "a rectangular cup ... and base" as well as "at least two coil springs provided within the base" forces the withdrawal of the previously set forth rejection of the claims over Curtis et al and Pitchford and causes this new ground of rejection of the claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules
Primary Examiner
Art Unit 3617

FFJ

April 10, 2006

FRANTZ F. JULES
PRIMARY EXAMINER